

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 384

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO MOTOR FUELS TAXES; AMENDING SECTION 63-2401, IDAHO CODE, TO REVISE THE DEFINITION OF MOTOR FUEL AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 63-2412, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE RELATING TO THE DISTRIBUTION OF REVENUES FROM THE TAX ON MOTOR FUELS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-2418, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE RELATING TO THE DISTRIBUTION OF REVENUES FROM THE TAX ON SPECIAL FUELS AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY, PROVIDING APPLICATION TO CERTAIN UNTAXED ETHANOL AND PROVIDING RETROACTIVE APPLICATION AND EFFECTIVE DATES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. In this chapter:

(1) "Aircraft engine fuel" means:

(a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and

(b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.

(2) "Biodiesel" means any fuel that is derived in whole or in part from agricultural products or animal fats or the wastes of such products and is suitable for use as fuel in diesel engines.

(3) "Biodiesel blend" means any fuel produced by blending biodiesel with petroleum-based diesel to produce a fuel suitable for use in diesel engines.

(4) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or

(c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter.

1 (5) "Commercial motor boat" means any boat, equipped with a motor,
2 which is wholly or partly used in a profit-making enterprise or in an
3 enterprise conducted with the intent of making a profit.

4 (6) "Commission" means the state tax commission of the state of Idaho.

5 (7) "Distributor" means any person who receives motor fuel in this
6 state, and includes a special fuels dealer. Any person who sells or receives
7 gaseous fuels will not be considered a distributor unless the gaseous fuel is
8 delivered into the fuel supply tank or tanks of a motor vehicle not then owned
9 or controlled by him.

10 (8) "Dyed fuel" means diesel fuel that is dyed pursuant to requirements
11 of the internal revenue service, or the environmental protection agency.

12 (9) "Exported" means delivered by truck or rail across the boundaries
13 of this state by or for the seller or purchaser from a place of origin in this
14 state.

15 (10) "Gasohol" means gasoline blended with ten percent (10%) or more of
16 anhydrous ethanol.

17 (11) "Gasoline" means any mixture of volatile hydrocarbons suitable
18 as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline"
19 also means aircraft engine fuels when used for the operation or propulsion
20 of motor vehicles or motor boats and includes gasohol, but does not include
21 special fuels.

22 (12) "Highways" means every place of whatever nature open to the use of
23 the public as a matter of right for the purpose of vehicular travel which is
24 maintained by the state of Idaho or an agency or taxing subdivision or unit
25 thereof or the federal government or an agency or instrumentality thereof.
26 Provided, however, if the cost of maintaining a roadway is primarily borne
27 by a special fuels user who operates motor vehicles on that roadway pursuant
28 to a written contract during any period of time that a special fuels tax
29 liability accrues to the user, such a roadway shall not be considered a
30 "highway" for any purpose related to calculating that user's special fuels'
31 tax liability or refund.

32 (13) "Idling" means the period of time greater than twenty-five
33 hundredths (.25) of an hour when a motor vehicle is stationary with the
34 engine operating at less than one thousand two hundred (1,200) revolutions
35 per minute (RPM), without the power take-off (PTO) unit engaged, with the
36 transmission in the neutral or park position, and with the parking brake set.

37 (14) "Imported" means delivered by truck or rail across the boundaries
38 of this state by or for the seller or purchaser from a place of origin outside
39 this state.

40 (15) "International fuel tax agreement" and "IFTA" mean the
41 international fuel tax agreement required by the intermodal surface
42 transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914,
43 and referred to in title 49, U.S.C., section 31701, including subsequent
44 amendments to that agreement.

45 (16) "Jurisdiction" means a state of the United States, the District of
46 Columbia, a province or territory of Canada, or a state, territory or agency
47 of Mexico in the event that the state, territory or agency participates in
48 the international fuel tax agreement.

49 (17) "Licensed distributor" means any distributor who has obtained a
50 license under the provisions of section 63-2427A, Idaho Code.

(18) "Motor fuel" means gasoline, ethanol, ethanol blended fuel, gasoline blend stocks, natural gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, motor boats or aircraft.

(19) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(20) "Person" means any individual, firm, fiduciary, copartnership, association, limited liability company, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(21) "Recreational vehicle" means a snowmobile as defined in section 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section 49-114, Idaho Code; any recreational vehicle as defined in section 49-119, Idaho Code; and an all-terrain vehicle as defined in section 67-7101, Idaho Code.

(22) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(23) "Special fuels" means:

(a) All fuel suitable as fuel for diesel engines;

(b) A compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and

(c) Natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles.

(24) "Special fuels dealer" means "distributor" under subsection ~~(67)~~ of this section.

(25) "Special fuels user" means any person who uses or consumes special fuels for the operation or propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(26) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in the operation or propulsion of a motor vehicle on the highways of this state.

SECTION 2. That Section 63-2412, Idaho Code, be, and the same is hereby amended to read as follows:

63-2412. DISTRIBUTION OF TAX REVENUES FROM TAX ON GASOLINE AND AIRCRAFT ENGINE FUEL. (1) The revenues received from the taxes imposed by sections 63-2402 and 63-2421, Idaho Code, upon the receipt or use of gasoline, and any penalties, interest, or deficiency additions, shall be distributed periodically as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission, as determined by it shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission at the end of each fiscal year shall be distributed as listed in paragraph (e) of this subsection.

(b) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

(c) As soon as possible after the beginning of each fiscal year, the sum of two hundred fifty thousand dollars (\$250,000) shall be distributed to the railroad grade crossing protection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 62-304C, Idaho Code.

(d) As soon as possible after the beginning of each fiscal year, the sum of one hundred thousand dollars (\$100,000) shall be distributed to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 40-703, Idaho Code.

(e) An amount of money equal to seven percent (7%) shall be distributed to the state highway account established in section 40-702, Idaho Code.

(f) The balance remaining with the commission after distributing the amounts in paragraphs (a) through (e) of subsection (1) of this section shall be distributed to the highway distribution account created in section 40-701, Idaho Code.

(2) The revenues received from the taxes imposed by section 63-2408, Idaho Code, and any penalties, interest, and deficiency amounts, shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the state refund account, and those moneys are hereby continuously appropriated.

(b) The balance remaining of all the taxes collected shall be distributed to the state aeronautics account, as provided in section 21-211, Idaho Code.

SECTION 3. That Section 63-2418, Idaho Code, be, and the same is hereby amended to read as follows:

63-2418. DISTRIBUTION OF TAX REVENUES FROM TAX ON SPECIAL FUELS. The revenues received from the tax imposed by this chapter upon the receipt of special fuel and any penalties, interest, or deficiency additions, or from the fees imposed by the commission under the provisions of section 63-2424 or 63-2438, Idaho Code, shall be distributed as follows:

(1) An amount of money equal to the actual cost of collecting, administering and enforcing the special fuels tax provisions by the commission, as determined by it shall be retained by the commission. The

1 amount retained by the commission shall not exceed the amount authorized to
2 be expended by appropriation by the legislature. Any unencumbered balance
3 in excess of the actual cost of collecting, administering and enforcing the
4 special fuels tax requirements by the commission at the end of each fiscal
5 year shall be distributed to the highway distribution account.

6 (2) An amount of money shall be distributed to the state refund account
7 sufficient to pay current refund claims. All refunds authorized by the
8 commission to be paid under this chapter shall be paid from the state refund
9 account, those moneys being hereby continuously appropriated.

10 (3) An amount of money equal to seven percent (7%) shall be distributed
11 to the state highway account as established in section 40-702, Idaho Code.

12 (4) The balance remaining with the commission after distributing the
13 amounts specified in subsections (1), ~~and~~ (2) and (3) of this section shall
14 be distributed to the highway distribution account ~~7~~ established in section
15 40-701, Idaho Code.

16 SECTION 4. An emergency existing therefor, which emergency is hereby
17 declared to exist, Section 1 of this act shall be in full force and effect on
18 and after July 1, 2010, and untaxed ethanol held in inventory on July 1, 2010,
19 shall be deemed received on July 1, 2010; Sections 2 and 3 of this act shall be
20 in full force and effect on and after passage and approval, and retroactively
21 to July 1, 2009.